

MONTANA LEGISLATIVE HISTORY

Chapter 384 1999

Bill H _____ S 331 Original bill & history ✓c

H. Committee on Bus. & Labor

Hearing Date(s) _____ c

3/19 ✓c

_____ c

_____ c

Date Out 3/22 ✓c

S. Committee on Bus. & Industry

Hearing Date(s) _____ c

2/5 ✓c

_____ c

_____ c

out 2/11 ✓

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

HISTORY AND FINAL STATUS 1999

2/16	Referred to Transportation		
3/10	Hearing		
3/16	Committee Executive Action--Bill Concurred	16	1
3/16	Committee Report--Bill Concurred		
3/29	2nd Reading Concurred	92	5
3/30	3rd Reading Concurred	94	5
	Returned to Senate		
3/30	Sent to Enrolling		
3/31	Returned from Enrolling		
3/31	Signed by President		
4/07	Signed by Speaker		
4/07	Transmitted to Governor		
4/14	Signed by Governor		
4/15	Chapter Number Assigned		
	Chapter Number 306		
	Effective Date: 4/14/1999 - All Sections		

SB 331 Introduced by Shea

LC0076 Drafter: B. Campbell

Generally Revise the Law Relating to the Franchising, Sale, and Warranty of Personal Watercraft, Snowmobiles, and Off-highway Vehicles;...

9/23	Fiscal Note Needed		
1/29	Introduced and 1st Reading		
1/29	Referred to Business and Industry		
1/29	Fiscal Note Requested		
2/03	Fiscal Note Received		
2/03	Fiscal Note Printed		
2/05	Hearing		
2/11	Committee Executive Action--Bill Passed	7	0
2/11	Committee Report--Bill Passed		
2/13	2nd Reading Passed as Amended	45	0
2/15	3rd Reading Passed	49	1
	Transmitted to House		
2/16	Referred to Business and Labor		
3/19	Hearing		
3/22	Committee Executive Action--Bill Concurred	14	4
3/23	Committee Report--Bill Concurred		
3/29	2nd Reading Concurred as Amended	78	20
3/31	3rd Reading Concurred	82	18
	Returned to Senate with Amendments		
4/08	2nd Reading House Amendments Concurred	50	0
4/09	3rd Reading Passed as Amended by House	48	2
4/12	Sent to Enrolling		
4/13	Returned from Enrolling		
4/14	Signed by President		
4/15	Signed by Speaker		
4/15	Transmitted to Governor		
4/20	Signed by Governor		
4/22	Chapter Number Assigned		
	Chapter Number 384		
	Effective Date: 10/01/1999 - All Sections		

SENATE BILL NO. 331

INTRODUCED BY Shan
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW RELATING TO THE FRANCHISING, SALE, AND WARRANTY OF PERSONAL WATERCRAFT, SNOWMOBILES, AND OFF-HIGHWAY VEHICLES; AND AMENDING SECTIONS 23-2-619, 23-2-818, 61-4-201, 61-4-202, 61-4-204, 61-4-205, 61-4-222, 61-4-402, AND 61-4-501, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Personal watercraft dealers -- additional registration requirements.

In addition to the requirements of 23-2-513, to qualify as a dealer, the applicant, when registering or renewing a registration, shall:

(1) complete an application:

(a) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed;

(b) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(c) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and

(d) stating the name and make of all personal watercraft handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement;

(2) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any personal watercraft offered for demonstration or loan to a customer;

(3) execute a certificate to the effect that the applicant has a permanent building for the display and sale of personal watercraft at the location of the premises where sales are conducted;

1 (4) execute a certificate to the effect that the applicant has a bona fide service department for
2 the repair, service, and maintenance of personal watercraft; and

3 (5) execute a certificate to the effect that the applicant is a bona fide dealer in personal
4 watercraft and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in
5 personal watercraft.

6
7 Section 2. Section 23-2-619, MCA, is amended to read:

8 "23-2-619. Dealer registration certificate -- use of fees. (1) (a) A dealer registration certificate
9 must be issued in accordance with 23-2-601 through 23-2-644.

10 (b) To qualify as a dealer the applicant, when registering or renewing a registration, shall:

11 (i) complete an application:

12 (A) stating the name under which the business is to be conducted and the location of the
13 premises (street address, city, county, and state) where records are kept, sales are made, and stock is
14 displayed;

15 (B) stating the name, address, date of birth, and social security number of all owners or persons
16 having an interest in the business, provided that in the case of a corporation, the names and addresses
17 of the president and secretary are sufficient;

18 (C) identifying other dealerships owned by the applicant, identifying all persons in Montana or in
19 another state having an interest in another dealership owned by the applicant, and disclosing whether the
20 applicant or any other person with interest in a dealership owned by the applicant has been convicted of
21 a felony; and

22 (D) stating the name and make of all snowmobiles handled and the name and address of the
23 manufacturer, importer, or distributor with whom the applicant has a written franchise or sales
24 agreement;

25 (ii) provide an affidavit certifying that the applicant has acquired and shall maintain liability
26 insurance for any snowmobile offered for demonstration or loan to a customer;

27 (iii) execute a certificate to the effect that the applicant has a permanent building for the display
28 and sale of snowmobiles at the location of the premises where sales are conducted;

29 (iv) execute a certificate to the effect that the applicant has a bona fide service department for
30 the repair, service, and maintenance of snowmobiles; and

(v) execute a certificate to the effect that the applicant is a bona fide dealer in snowmobiles and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in snowmobiles.

(2) The dealer application must be accompanied by an application fee of \$5 and a registration fee of \$5. Upon receipt of the dealer application and payment of fees, the dealer ~~shall~~ must be issued two dealer snowmobile identification cards that must be carried by the dealer or the dealer's customer when demonstrating the dealer's snowmobiles.

(3) (a) A dealer shall file a bond is not required of the dealer in the amount of \$5,000.

(b) The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually.

(c) A person who suffers loss or damage because of the unlawful conduct of a dealer registered under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. Before payment on the bond is required, the judgment must determine a specific loss or damage amount and conclude that the dealer's unlawful operation caused the loss or damage.

(4) The dealer shall have a principal place of business where the dealer ~~shall maintain~~ maintains all business records and ~~display and sell~~ where the dealer displays and sells merchandise.

(5) An applicant for renewal of a snowmobile dealer registration shall certify that the applicant has sold five or more snowmobiles during the preceding year or pay an additional \$50 renewal registration fee or provide a copy of a written new snowmobile franchise or sales agreement that the applicant has with a manufacturer, importer, or distributor.

(6) Additional dealer snowmobile identification cards as required by need justified to the department of justice may be purchased by the dealer for a fee of \$2.

(7) Dealer registration certificates and identification cards expire on June 30 following the date of issuance.

(8) (a) The dealer application fees and all interest accruing from use of this money must be deposited in the state special revenue fund to the credit of the department, with one-half designated for use in enforcing the purposes of 23-2-601 through 23-2-644 and one-half designated for use in the development, maintenance, and operation of snowmobile facilities.

(b) All money collected from dealer registration and renewal registration fees must be deposited in the general fund."

Section 3. Section 23-2-818, MCA, is amended to read:

"23-2-818. Dealer registration certificate -- use of fees. (1) (a) Unless the dealer is licensed under the provisions of 61-4-101, a dealer may not sell off-highway vehicles unless ~~he~~ the dealer has first obtained a dealer registration certificate from the department of justice under the provisions of this section.

(b) To qualify as a dealer the applicant, when registering or renewing a registration, shall:

(i) complete an application:

(A) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed;

(B) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(C) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and

(D) stating the name and make of all off-highway vehicles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement;

(ii) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any off-highway vehicle offered for demonstration or loan to a customer;

(iii) execute a certificate to the effect that the applicant has a permanent building for the display and sale of off-highway vehicles at the location of the premises where sales are conducted;

(iv) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of off-highway vehicles; and

(v) execute a certificate to the effect that the applicant is a bona fide dealer in off-highway vehicles and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in off-highway vehicles.

(2) The dealer application for registration or renewal of registration must be accompanied by an application or renewal fee of \$5 and a registration fee of \$5. To qualify for the fees in this subsection, the applicant for renewal shall certify that he the applicant has sold three or more off-highway vehicles during the preceding year. Upon receipt of the dealer application or renewal and payment of fees, the dealer must be issued two dealer off-highway identification cards to be carried by the dealer or the dealer's customer when demonstrating the dealer's off-highway vehicles. Additional dealer off-highway vehicle identification cards may be purchased by the dealer from the department of justice for a fee of \$2 each.

(3) (a) No A bond is required of the dealer dealer shall file a bond in the amount of \$5,000.

(b) The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually.

(c) A person who suffers loss or damage because of the unlawful conduct of a dealer registered under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. Before payment on the bond is required, the judgment must determine a specific loss or damage amount and conclude that the dealer's unlawful operation caused the loss or damage.

(4) The dealer shall have a principal place of business where he the dealer maintains all his business records and where he the dealer displays and sells merchandise.

(5) An applicant for renewal of an off-highway vehicle dealer registration who does not qualify under subsection (2) shall:

(a) pay an additional \$50 renewal registration fee; and

(b) provide a copy of a new off-highway vehicle franchise or sales agreement that he the applicant has with a manufacturer, importer, or distributor.

(6) Dealer registration certificates and identification cards expire on December 31 following the date of issuance.

(7) (a) The dealer application fees and all interest accruing from use of this money must be deposited in the general fund to be used by the department of justice for the administration of this part.

(b) All dealer registration fees and renewal fees collected must be deposited in the account provided in 23-2-804(3). This money and the interest earned on it must be used for off-highway vehicle safety and education programs."

Section 4. Section 61-4-201, MCA, is amended to read:

"61-4-201. Definitions. As used in this part, the following definitions apply unless the context clearly indicates otherwise:

(1) "Community" means the relevant market area of a franchise. For the purposes of this part, the relevant market area of a franchise is the county or counties in which the franchisee is located.

(2) "Distributor" or "wholesaler" means a person who sells or distributes new motor vehicles to new motor vehicle dealers in this state or who maintains distributor representatives in this state.

(3) "Distributor branch" means a branch office maintained or availed of by a distributor or wholesaler for the sale of new motor vehicles to new motor vehicle dealers in this state for directing or supervising its representatives in this state.

(4) "Factory branch" means a branch office maintained or availed of by a manufacturer for the sale of new motor vehicles to distributors or for the sale of new motor vehicles to new motor vehicle dealers in this state or for directing or supervising its representatives in this state.

(5) "Franchise" means a contract between or among two or more persons when all of the following conditions are included:

(a) a commercial relationship of definite duration or continuing indefinite duration is involved;

(b) the franchisee is granted the right to offer, sell, and service in this state new motor vehicles manufactured or distributed by the franchisor;

(c) the franchisee, as a separate business, constitutes a component of franchisor's distribution system; and

(d) the operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of new motor vehicles, parts, and accessories.

(6) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise and who offers, sells, and services ~~such~~ the new motor vehicles to and for the general public.

(7) "Franchisor" means a person who manufactures, imports, or distributes new motor vehicles and who may enter into a franchise.

(8) "Importer" means a person who transports or arranges for the transportation of a foreign manufactured new motor vehicle into the United States for sale in this state.

(9) "Manufacturer" means a person who manufactures or assembles new motor vehicles or who

manufactures or installs on previously assembled truck chassis special bodies or equipment that, when installed, forms an integral part of the new motor vehicle and that constitutes a major manufacturing alteration, but does not include a person who installs a camper on a pickup truck.

(10) "Motor vehicle" includes a personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, and an off-highway vehicle as defined in 23-2-801.

~~(10)~~(11) "New motor vehicle" means a motor vehicle that has not been the subject of a retail sale regardless of the mileage of the vehicle.

~~(11)~~(12) "New motor vehicle dealer" means a person who buys, sells, exchanges, or offers or attempts to negotiate a sale or exchange or any interest in or who is engaged in the business of selling new motor vehicles under a franchise with the manufacturer of the new motor vehicles or used motor vehicles taken in trade on new motor vehicles.

~~(12)~~(13) (a) "Retail sale" means the sale of a new motor vehicle.

(b) "Retail sale" does not mean a sale:

(i) of a new motor vehicle to a purchaser who is acquiring the vehicle for the purposes of a resale;

or

(ii) that is the result of a transfer between two licensed new motor vehicle dealers."

Section 5. Section 61-4-202, MCA, is amended to read:

"61-4-202. License requirements -- fee exemption. (1) ~~No~~ A new motor vehicle dealer, manufacturer, distributor, factory branch, ~~or~~ distributor branch, importer, or franchiser may not engage in business in Montana except in accordance with the requirements of this part. The provisions of this part do not apply to a public officer engaged in the discharge of his official duties or to a trustee, receiver, or other officer acting under the jurisdiction of a court; to financial institutions disposing of repossessed vehicles; or to a person disposing of his a personal vehicle. The provisions of this part regulating and licensing new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, importers, and franchisors apply only to those new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, importers, and franchisors of motor vehicles as defined by this part.

(2) (a) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor transacting business within Montana by offering, selling, trading, consigning, or otherwise transferring

1 a new motor vehicle to a new motor vehicle dealer must be licensed by the state of Montana. The
2 department shall issue licenses to qualified applicants upon receipt of a license fee in the amount of \$15
3 accompanied by the information required in this section.

4 (b) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor of a
5 personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, or an off-highway
6 vehicle as defined in 23-2-801 is not required to pay the \$15 fee required in subsection (2)(a).

7 (3) The following information, if applicable, ~~shall~~ must be submitted by an applicant upon forms
8 supplied by the department:

9 (a) the name and address of the applicant;

10 (b) the make and model of each new motor vehicle to be franchised;

11 (c) the name and address of each of the applicant's franchisees within the state; and

12 (d) the name and address of each factory branch, distributor branch, agent, or representative
13 within the state.

14 (4) (a) The Except as provided in subsection (4)(b), a license may be renewed each year if the
15 applicant is in compliance with the provisions of this part, remits a renewal fee in the amount of \$15, and
16 notifies the department of any changes in the information previously supplied.

17 (b) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor of a
18 personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, or an off-highway
19 vehicle as defined in 23-2-801 is not required to pay the \$15 fee required in subsection (4)(a) but is
20 required to annually apply to renew its license on a form provided by the department.

21 (5) (a) No A new motor vehicle may not be sold in this state unless either the manufacturer on
22 direct dealership of domestic vehicles, the importer of foreign manufactured vehicles on direct dealership,
23 or the distributor on indirect dealerships of either domestic or foreign vehicles is licensed as provided in
24 this part.

25 (b) Notwithstanding any other licensing provision contained in Montana law, every new motor
26 vehicle dealer must shall obtain a license under part 1 of this chapter.

27 (c) The obtaining of a license under this part or Title 61, chapter 4, part 1 conclusively establishes
28 that a new motor vehicle dealer, manufacturer, distributor, or importer is subject to the laws of this state
29 regulating new motor vehicle dealers, manufacturers, importers, and distributors.

30 (d) The provisions of subsection (5)(b) do not apply to dealers of personal watercraft,

snowmobiles, or off-highway vehicles licensed under the provisions of Title 23."

Section 6. Section 61-4-204, MCA, is amended to read:

"61-4-204. Filing agreement -- product liability. (1) A franchisee ~~must~~ shall, at the time ~~he~~ the franchisee applies for a new motor vehicle dealer license under the provisions of Title 23 or 61-4-101, file with the department a certified copy of ~~his~~ the franchisee's written agreement with a manufacturer and a certificate of appointment as dealer or distributor. The certificate of appointment must be signed by an authorized agent of the manufacturer of domestic vehicles whenever there is a direct manufacturer dealer agreement or by an authorized agent of the distributor whenever the manufacturer is wholesaling through an appointed distributorship. The certificate must be signed by an authorized agent of the importer of foreign made vehicles whenever there is a direct importer-dealer agreement or by an authorized agent of the distributor whenever there is an indirect distributor-dealer agreement. The distributor's certificate of appointment must be signed by an authorized agent of the manufacturer of domestically manufactured vehicles or by an authorized agent of the manufacturer or importer of foreign made vehicles.

(2) A franchisee need not file a written agreement or certificate of appointment if the manufacturer on direct dealerships or distributor on indirect dealerships or importer on direct dealerships uses the identical basic agreement for all its franchised dealers or distributors in this state and certifies in the certificate of appointment that the blanket agreement is on file and the written agreement with the particular dealer or distributor, respectively, is identical with the filed blanket agreement and that ~~he~~ the franchisee has filed with the department one ~~such~~ agreement together with a list of franchised dealers or distributors.

(3) A manufacturer, distributor, or importer shall notify the department within 30 days of any revision of or addition to the basic agreement on file or of any franchise supplement to the agreement. Annual renewal of a certificate filed as provided in this section is not required.

(4) A manufacturer ~~must~~ shall file with the department a copy of the delivery and preparation obligations required to be performed by a dealer prior to the delivery of a new motor vehicle to a buyer. These delivery and preparation obligations constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer. Any mechanical, body, or parts defects arising from an express or implied warranty of the manufacturer constitute the manufacturer's product or warranty liability only; provided, however, that this section ~~shall~~ may not affect the obligations of new motor

1 vehicle dealers to perform ~~such~~ warranty repair and maintenance as may be required by law or contract.
2 Except ~~as regards~~ with regard to household appliances, including but not limited to ranges, refrigerators,
3 and water heaters, in a recreational vehicle, as defined in 61-1-132, and except ~~as regards~~ with regard
4 to a truck rated at more than 10,000 pounds gross vehicle weight, the manufacturer ~~must~~ shall
5 compensate an authorized dealer for labor, parts, and other expenses incurred by a dealer who performs
6 work to rectify the manufacturer's product or warranty defect or for delivery and preparation obligations
7 at the same rate and time the dealer charges to its retail customers for nonwarranty work of a like kind,
8 based upon a published, nationally recognized, retail flat rate labor time guide manual if the dealer uses
9 the manual as the basis for computing charges for both warranty and retail work.

10 (5) The dealer ~~must~~ shall furnish the purchaser of a new vehicle with a signed copy of the
11 manufacturer's delivery and preparation requirements indicating that each of those requirements has been
12 performed."

13

14 Section 7. Section 61-4-205, MCA, is amended to read:

15 "61-4-205. Limitations on cancellation and termination. (1) Notwithstanding the terms, provisions,
16 or conditions of any agreement or franchise, a franchisor may not cancel, terminate, or refuse to continue
17 a franchise unless the franchisor has cause for termination or noncontinuance.

18 (2) A franchisor may not enter into a franchise for the purpose of establishing an additional new
19 motor vehicle dealership in any community in which the same line-make is then represented unless there
20 is good cause for an additional new motor vehicle dealership under a franchise and ~~that~~ it is in the public
21 interest.

22 (3) If a franchisor seeks to terminate or not continue a franchise or seeks to enter into a franchise
23 establishing an additional new motor vehicle dealership of the same line-make, the franchisor shall, not
24 less than 60 days prior to the intended action, and the franchisee may, at any time, file a notice with the
25 department of intention to terminate or not continue the franchise or to enter into a franchise for
26 additional representation of the same line-make. A notice of intention to terminate or not continue a
27 franchise is not required from a franchisor until the conclusion of any review proceeding of that intention
28 offered to the franchisee under the franchise. This section does not apply to an intended termination or
29 noncontinuance of a franchise that the franchisee elects voluntarily, pursuant to a plan established by a
30 franchisor, to submit to binding arbitration.

(4) Upon receiving a notice of intention under the provisions of subsection (3), the department shall, within 5 days of receipt of a notice of intention, send by certified mail, with return receipt requested, a copy of the notice to the franchisor and to the franchisee whose franchise the franchisor seeks to establish, terminate, or not continue. If the notice states an intent to establish an additional new motor vehicle dealership, a copy of the notice must be sent within 5 days of receipt to all franchisees in the community who are then engaged in the business of offering to sell or selling the same line-make. Copies of notices must be addressed to the principal place of business of each recipient and to the statutory agent of each corporate recipient. The department may also give a copy of the franchisor's notice to any other parties whom the department may consider interested persons.

(5) In instances where the change in ownership has the effect of the sale of the franchise, the franchisor may not without good cause withhold its consent to the sale. Good cause relates only to the transferee's financial and managerial capabilities or to the inability of the transferee to comply with a state or federal law relating to new motor vehicle dealerships. The burden of establishing good cause is upon the franchisor.

(6) Notwithstanding the terms, provisions, or conditions of an agreement or franchise, in the event of the sale or transfer of ownership of the franchisee's dealership by sale or transfer of the business or by stock transfer to the dealer's or wholesaler's spouse, son, or daughter, the franchisor shall give effect to the sale or transfer of ownership in the franchise unless the transfer of the franchisee's new motor vehicle dealer's or wholesaler's license is denied or the new owner is unable to obtain a license under the laws of this state.

(7) If a franchisor enters into or attempts to enter into a franchise, whether upon termination or refusal to continue another franchise or upon the establishment of an additional new motor vehicle dealership in a community where the same line-make is then represented, without first complying with the provisions of this part, a license under Title 23 or 61-4-101 through 61-4-105 may not be issued to that franchisee or proposed franchisee to engage in the business of selling new motor vehicles manufactured or distributed by that franchisor."

Section 8. Section 61-4-222, MCA, is amended to read:

"61-4-222. Fees. (1) Upon making the application required under 61-4-221, the manufacturer shall pay to the department a fee of \$250, which entitles the manufacturer to one set of number plates,

1 and an additional fee of \$20 for each additional set of number plates. The manufacturer may receive one
2 set of number plates for each manufacturer's representative.

3 (2) The fees provided for in subsection (1) do not apply to the manufacturer of a personal
4 watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, or an off-highway vehicle as
5 defined in 23-2-801."

6
7 Section 9. Section 61-4-402, MCA, is amended to read:

8 "61-4-402. Definitions. (1) "Finance company" or "finance agency" ~~shall mean any~~ means a
9 person, firm, association, corporation, or other organization engaged in the business of buying, selling,
10 assigning, dealing, financing, or acquiring conditional contracts of sale or engaged in the business of
11 purchasing or acquiring promissory notes or any other form or evidences of indebtedness of sale, either
12 secured by vendor's lien, conditional bill of sale, chattel mortgage, or leases arising out of the sale of
13 motor vehicles in this state.

14 (2) The term "manufacturer" ~~shall mean any~~ means a person, firm, corporation, partnership, or
15 association engaged either directly or indirectly in the manufacture or wholesale distribution of motor
16 vehicles.

17 (3) The term "motor vehicle", as used in this part, includes a personal watercraft as defined in
18 23-2-502, a snowmobile as defined in 23-2-601, and an off-highway vehicle as defined in 23-2-801.

19 ~~(3)(4)~~ The terms "sell", "sold", "buy", and "purchase", as used in this part, include exchange,
20 barter, gift, and offer or contract to sell or buy.

21 ~~(4)(5)~~ The term "wholesale distributor" ~~shall mean any~~ means a person, firm, association,
22 corporation, or other organization engaged directly or indirectly in the sale or distribution of motor vehicles
23 to agents or to dealers."

24

25 Section 10. Section 61-4-501, MCA, is amended to read:

26 "61-4-501. Definitions. For purposes of this part, the following definitions apply:

27 (1) "Collateral charge" means all governmental charges, including but not limited to sales tax,
28 property tax, license and registration fees, and fees in lieu of tax.

29 (2) "Consumer" means the purchaser, other than for purposes of resale, of a motor vehicle that
30 has not been brought into nonconformity as the result of abuse, neglect, or unauthorized modifications

or alterations by the purchaser, any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle, or any other person entitled by the terms of the warranty to the benefits of its provisions.

(3) "Incidental damage" means incidental and consequential damage as defined in 30-2-715.

(4) "Manufacturer" has the meaning applied to that word in 61-4-201.

(5) (a) "Motor vehicle" means a vehicle, including the nonresidential portion of a motor home as defined in 61-1-130, propelled by its own power, designed primarily to transport persons or property upon the public highways, and sold in this state. The term also includes a personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, and an off-highway vehicle as defined in 23-2-801.

(b) The term does not include a truck with 10,000 pounds or more gross vehicle weight rating or a motorcycle as defined in 61-1-105. Motor vehicle does not include components, systems, fixtures, appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for residential purposes.

(6) "Reasonable allowance for use" is an amount directly attributable to use of the motor vehicle by the consumer and any previous consumers prior to the first written notice of the nonconformity to the manufacturer or its agent and during any subsequent period when the vehicle is not out of service because of nonconformity. The reasonable allowance for use ~~shall~~ must be computed by multiplying the total contract price of the vehicle by a fraction having as its denominator 100,000 and having as its numerator the number of miles that the vehicle traveled prior to the manufacturer's acceptance of its return.

(7) "Warranty period" means the period ending 2 years after the date of the original delivery to the consumer of a new motor vehicle or during the first 18,000 miles of operation, whichever is earlier."

NEW SECTION. Section 11. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 23, chapter 2, part 5, and the provisions of Title 23, chapter 2, part 5, apply to [section 1].

- END -

FISCAL NOTE

Bill #: SB0331

Title: Revise snowmobile, ATV, & personal
water craft sales, franchise, warranty law

Primary
Sponsor: Debbie Shea

Status: As introduced

Sponsor signature

Date

Dave Lewis
Dave Lewis, Budget Director

2-2-99
Date

Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:		
State Special Revenue	15,000	15,000
Revenue:		
State Special Revenue	\$15,000	\$15,000
Net Impact on General Fund Balance:	0	0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact		X	Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. SB331 adds to the New Motor Vehicle Warranty Act, watercraft, snowmobiles, and off highway vehicles. The act provides for Department of Commerce (DOC) review and certification of arbitration procedures for each manufacturer of vehicles and for a DOC operated arbitration process for consumers who purchase such vehicles.
2. The DOC estimates that there are 25 different manufacturers of watercraft, snowmobiles, and off-highway vehicles. It is assumed that none of these manufacturers currently meet the certification requirements for arbitration under Title 61, Chapter 4, part 5.

SB 331

Fiscal Note Request, SB0331, as introduced

Page 2

(continued)

3. It is estimated that 50 consumers will request arbitration procedures through the DOC each fiscal year and that certification review and arbitration work will be performed by existing staff previously authorized by the New Vehicle Warranty Act. Additional operating costs of \$15,000 each year are needed for arbitration services and other additional expenses.
4. Revenue is estimated at \$15,000 each year of the 2001 biennium ($\$50 * 50$ consumer arbitration requests + \$250 manufacturer filing fees * 50 arbitration requests).
5. There is no fiscal impact to the Department of Justice.
6. There is no fiscal impact to the Department of Fish, Wildlife and Parks.

FISCAL IMPACT:

Department of Commerce

**FY2000
Difference**

**FY2001
Difference**

Expenditures:

Operating Expenses

15,000

15,000

Funding:

State Special Revenue (02)

15,000

15,000

Revenues:

State Special Revenue (02)

\$15,000

\$15,000

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Business and Industry -

04:37 PM

-
- SB 315** **SPONSOR:** Wells, Jack **SHORT TITLE:** Restrict lottery advertising
 REFERRED ON: 01/28/1999 **HEARD ON:** 02/03/1999
 TABLED ON: 02/11/1999
 FINAL DISPOSITION 03/01/1999 (S) Missed Deadline for General Bill Transmittal
-
- SB 318** **SPONSOR:** McNutt, Walter **SHORT TITLE:** Revise dates for transition to electrical customer choice
 REFERRED ON: 01/28/1999 **HEARD ON:** 02/04/1999
 TABLED ON: 02/11/1999
 FINAL DISPOSITION 03/01/1999 (S) Missed Deadline for General Bill Transmittal
-
- SB 326** **SPONSOR:** Tester, Jon **SHORT TITLE:** Revise law on privacy in communications
 REFERRED ON: 01/29/1999 **HEARD ON:** 02/04/1999
 EXECUTIVE ACTION: 02/05/1999 Bill Passed -- VOTE: 5 - 0
 FINAL DISPOSITION 04/20/1999 Chapter Number Assigned
-
- SB 331** **SPONSOR:** Shea, Debbie **SHORT TITLE:** Revise snowmobile, atv, & personal water craft sales, franchise, warranty law
 REFERRED ON: 01/29/1999 **HEARD ON:** 02/05/1999
 EXECUTIVE ACTION: 02/11/1999 Bill Passed -- VOTE: 7 - 0
 FINAL DISPOSITION 04/22/1999 Chapter Number Assigned
-
- SB 332** **SPONSOR:** Ekegren, Pete **SHORT TITLE:** Prohibit government competing with private sector for telecommunications service
 REFERRED ON: 01/29/1999 **HEARD ON:** 02/05/1999
 TABLED ON: 02/15/1999
 FINAL DISPOSITION 03/01/1999 (S) Missed Deadline for General Bill Transmittal
-
- SB 347** **SPONSOR:** Stang, Spook **SHORT TITLE:** Revise insurance laws on small employer health reinsurance program
 REFERRED ON: 01/30/1999 **HEARD ON:** 02/09/1999
 EXECUTIVE ACTION: 02/11/1999 Bill Passed as Amended -- VOTE: 7 - 0
 FINAL DISPOSITION 03/19/1999 Chapter Number Assigned
-
- SB 349** **SPONSOR:** Christiaens, Chris **SHORT TITLE:** Establish housing revolving loan fund
 REFERRED ON: 01/30/1999
 FINAL DISPOSITION 04/16/1999 Chapter Number Assigned
-

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY**

Call to Order: By CHAIRMAN JOHN HERTEL, on February 5, 1999 at 9:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)

Members Excused: Sen. Mike Sprague, Vice Chairman (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 331, 2/2/1999
SB 332, 2/2/1999
Executive Action: SB 304; SB 289
SB 107; SB 326
SB 263; SB 307

{Tape : 1; Side : A; Approx. Time Counter : 0}

EXECUTIVE ACTION ON SB 263

Motion: SEN. COCCHIARELLA moved that SB 263 DO NOT PASS.

HEARING ON SB 331

Sponsor: SENATOR DEBBIE SHEA, SD 18, BUTTE

Proponents: Matt Krsul, Director, MT Powersports
Glenn Middlestead, Helena Cycle Center
Cliff Gullett, Team Bozeman Motorsports

Information Testimony: Dean Roberts, Dept. of Transportation
Brenda Nordlund, Dept. of Justice
Annie Bartos, Dept. of Commerce
Ken Hoovestall, MT Snowmobile Assoc.

Opponents: None

Opening Statement by Sponsor:

SENATOR DEBBIE SHEA, SD 18, BUTTE. As you may recall, this bill was just an idea two years ago. For two years, the bill has been looked at and discussed. I now present to you SB 331. I want to thank Bart Campbell for his patience as he rewrote this bill several times. This bill would have water craft, snowmobile and off-highway vehicle dealer registration requirements fall in line with those of the automobile industry. Sections 1, 2 and 3 of the bill address this issue. This is a consumer protection bill. It is also a franchise protection bill. This gives some security to small businesses.

Proponents' Testimony:

Matt Krsul, Director, Powersports Dealers Assoc. Our association has approximately 50% of all the known dealers in the State of Montana. The dealers are concerned about their ability to do business because of the attitudes of the manufacturers. Another concern is non-authorized dealers who sell our product. Our products are becoming very popular and very expensive. I believe we are on line with the automobile industry as far as expenses that the consumers pay. We would like our industry to be on a par with the auto industry so that the dealers would have to have

a facility, a service department and that includes being bonded by the state. At this point, that is not required. The manufacturers in the years that I have been in this business, want to run our business. They tell us the number of products we have to buy from them, the models we need to buy, etc. If this bill is passed it would offer us the same protection that the automobile and RV people have.

Glenn Middlestead, Helena Cycle Center. I have been a dealer for 20 years. From the beginning we have had a volatile relationship with the manufacturers. Part of this bill is obviously to benefit the dealers but there are benefits for the consumers. We want to have a good business, hire more people, etc. Right now, a dealer can set up anywhere, anytime and they have no real responsibility to the consumers for what they are buying. We do feel that the manufacturers should not be able to tell us what to buy, how much to buy and when to buy. And we have no recourse. We must sign the order and hope to make it through with what is coming in or give in or up. So this bill will have short range and long range effects and will be good for everyone.

Cliff Gullet, Team Bozeman Motorsports. Our business is expanding; we do approximately 540 units a year and \$3.5 million gross income. We have 20 employees. To keep that up, we need to be able to run our business without the dictates of the manufacturers. For example, Seadoo just sent us a letter after we had studied what we should order. They said that what we had ordered, we can't have and they want to give us some holdover product from last year. If we don't take that 1998 model stuff, then we don't qualify for the program that we had already qualified for several months ago. They give us one set of rules one month and three months later they change the rules on us. Kawasaki is doing the same thing. They have nine different models and in Montana we sell three of those nine. They try to make us take the stuff that we know won't sell in Montana. Polaris does the same thing. Last year when we ordered, they put our order up by 10% and said we had to buy 67 units and they decided what 75% of those units would be and we could decide on 25%. We know what sells in our area but they just try to get rid of the things they are having trouble selling and want to make us take those units. So we get stuck with things that just don't sell. With this bill, we hope this will help us out and at the same time will be better for our consumers.

Opponents' Testimony: None

Information Testimony:

Dean Roberts, Administrator, Motor Vehicles, Department of Justice. We are the ones that administer dealer law. If you have any questions, Brenda Nordlund, Dept. of Justice attorney is here and would be able to answer any questions you might have.

Annie Bartos, Chief Legal Counsel, Department of Commerce. I oversee the Consumer Affairs Office of the Department. We applaud this bill as an effort to protect consumers in the state and to assist small businesses. The section of the bill that pertains to the Dept. is Section 10. That would add ATV's, the snowmobiles and boats to the present "lemon law" that are in the state, The New Vehicle Warrantee Act. During the last legislative session, Representative Dan Harrington introduced a bill to provide a mechanism to fund the "lemon law" program through the Department of Commerce by collecting \$1 on all new vehicles. That bill passed and established a fund to operate the program. The problem that the Department sees with Section 10 is that there is not a funding mechanism to operate a "lemon law" program, and we would assume that there would be a number of consumers who have purchased these power sports machines who would need this arbitration process. We just want to bring this to your attention.

Ken Hoovestall, MT Snowmobile Assoc. I would like to explain why we are staying neutral on this bill. It is not that we don't support what they are doing. The manufacturers are very good to us and we don't want to raise any red flags on their behalf. I do have a couple of concerns. On page 3, line 7 and on page 5, line 9 addresses bonding. We are not sure if the bonds are really needed at all. One of their reasonings was to prohibit backdoor dealers, etc. The franchise agreements under this act would take care of those concerns. On page 13, line 21, it talks about warranty periods of no longer than two years. That should be changed to read two years or whatever the manufacturers put on for their machines. For example, Yamaha has three year warranties. We wouldn't want manufacturers to interpret this law to say they would only have to honor the warranty for two years.

{Tape : 2; Side : A; Approx. Time Counter : 24.8}

Questions from Committee Members and Responses:

SEN. BEA MCCARTHY asked **Matt Krsul** if on page 2, line 27 and 28, that was put in to help the dealers on warranties from backyard dealers. **Mr. Krsul** said yes. **SEN. MCCARTHY** then asked how the people who are currently working out of their home or wherever would be taken care of with the passage of this bill. **Mr. Krsul** said that when the licensees are renewed annually at the first of the year, it would be at that time they would have to prove their facility, etc.

SEN. GLENN ROUSH asked **Brenda Nordlund** if the word "dealer" could mean automobile dealer. **Ms. Nordlund** said yes. When you talk about the sections of the bill that basically amend current, new motor vehicle dealer laws, you expand it to apply to the power sports. When you see the word "dealer", it will be expanded to the power sports and the current law through the motor vehicle dealer. **SEN. ROUSH** said that in the eastern part of the state many automobile dealers have power sports vehicles on their lots. Do those people as an automobile dealer have to get re-licensed as a recreational dealer. **Mr. Nordlund** said yes they would. Typically, they already have dealer statutes that apply to these sports vehicle dealers.

SEN. VICKI COCCHIARELLA asked **SEN. SHEA** if she could address the bonding issue, the warranty period and the lemon law. **SEN. SHEA** said that she had visited with **Mr. Hoovestal** about the bonding. If the dealers want to fall in line with the automobile association then they would have to comply with that. The power sports dealers felt that it would be worth it to go ahead and have one, two or three bonds. In regard to Section 10, they would be amenable to remove that section. The warranty issue would be taken care of because it is in Section 10 also.

SEN. COCCHIARELLA asked **Mr. Roberts** the same questions. **Mr. Roberts** said that other kinds of dealers only use one bond and we accept one bond. This could be amended and have one bond for \$5,000 to cover all three of these kinds of power sports vehicles. One other issue with the bond is the bond doesn't really apply to the same consumer questions that the Department of Commerce would have. The bond applies to such things as when the dealer is violating the law in relationship to how he sells

the vehicle. The bond doesn't really have to do with whether the vehicle runs or not.

SEN. DALE BERRY asked Matt Krsul if his association covers the majority of the dealers. Mr. Krsul said yes. They have talked to almost all of the dealers and most of them agree with this bill.

SEN. JOHN HERTEL asked Mr. Hoovestal if he was reluctant to put the power sports dealers on the same level of the automobile dealers. Mr. Hoovestal said that they certainly did have legitimate concerns and he did stand in support of them.

{Tape : 2; Side : A; Approx. Time Counter : 38.9}

Closing by Sponsor:

SEN. SHEA closed. I have a letter EXHIBIT(12) that I would like to distribute from the See-Doo Dealer. (She read the letter.) This is an important piece of legislation and thank you the good hearing.

EXECUTIVE ACTION ON COMMITTEE BILL

Ms. Annie Bartos, Chief Legal Counsel, Department of Commerce presented a petition to the committee to carry a committee bill and explained the reasons for the request EXHIBIT(13).

Motion/Vote: SEN. COCCHIARELLA MOVED TO DRAFT A COMMITTEE BILL TO ADDRESS THE ISSUES OF MAUSOLEUMS AND COLUMBARIUMS AND RE-INACT THE MCA SECTIONS 35-21-101 THROUGH 35-21-713 THAT WERE DELETED IN THE LAST LEGISLATIVE SESSION. Motion carried unanimously. 5-0

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 12

DATE 2-5-99

BILL NO. SB 331



**BOMBARDIER
RECREATIONAL PRODUCTS**

Bombardier Watercraft Division of America
730 E. Stowbridge Avenue
Melbourne, FL 32901 United States
Telephone: (407) 722-4000
Fax: (407) 722-4078
<http://www.recreation.bombardier.com>

Dear Sea-Doo Dealer,

Enthusiasm for our 1998 Watercraft & Sport Boat lineups has created a shortfall in our production schedule for certain models. In order to maintain your '98 program levels and benefits, your District Manager will be contacting you within the next 2 weeks with a list of available models to substitute for the shortage. Available inventory will include select '98 models as well as some '98 products, now featuring expanded rebates.

We will continue our commitment to lowering inventories and maximizing profitability by supporting non-current product with industry leading incentives throughout the 1998 season.

Sincerely,

A handwritten signature in black ink that reads "Henry Lonski".

Henry Lonski

DATE 2-5-99

[illegible]

DATE February 5, 1999

SENATE COMMITTEE ON Business + Industry

BILLS BEING HEARD TODAY: SB 331, SB 332

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
<i>Joyce A. Smith</i> JOYCE A. SMITH	X0312	DCHS	332		X
KYNN CHURCHILL	243-2697	U of M	332		X
<i>MIKE McCals</i> MIKE McCALS	841-300	DMA	332		X
<i>Tony Hubert</i> TONY HUBERT	4111	ISD	332		X
David Todd	994-7099	MSU	332		X
Dean G. Roberts	444-4548	DOS / MVP	331		
Brenda Nordlund	444-2713	Dept. Justice	331		
BRUCE NEWELL	4471690 X.11	LEWIS CLARK LIBRARY	332		P
Lynne Nelson	442-2123	MFT / MEA	332		X
Ken Hoover	443-1744	MT. Snowmobile Assn	331		
Leon Mari		MACO	332		X
Gross Feiss	442-4516	MT Telecom Assn	332	✓	
Mike Strand	443-1840	MCTS	332	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-5-99

SENATE COMMITTEE ON Bus. & Ind

BILLS BEING HEARD TODAY: SB 331 + SB 332

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Lois Fitzpatrick	7-4341	M.T. Lib. Assn	332		✓
Karen Strege	3116	State Libray	332		✓
MATT KESUL	7829129	Mt. Powersports Dvr	331	✓	
Glenn Middlestead	443-4631	Helena Cycle Center	331	✓	
CLIFF Gullett	587-4671	TEAM BOZEMAN Motorsports	331	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on February 11, 1999 at 8:30 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)
Sen. Fred Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 369, 2/5/1999
SB 351, 2/5/1999
SB 414, 2/9/1999
SB 379, 2/5/1999
SB 378, 2/5/1999
SB 377, 2/5/1999

Executive Action: SB 318; SB 315
SB 275; SB 373
SB 240; SB 331
SB 347; SB 410

{Tape : 1; Side : A; Approx. Time Counter : 0 - 23; Comments : Senator Ric Holden explained the amendments EXHIBIT(bus34a01) of SB 263. Senate Bill 123, SB 125 and SB 126 were discussed with no executive action taken.}

Section 2 which states that the maximum amount of retainage that a government entity could retain would be 5%. At the same time, that same percentage is what would be limited for the contractor to withhold from the subcontractors. Number 4, page 2, line 2 deals with private people dealing with contractors (excepts out residential construction). Section 3 of the existing bill is struck in its entirety. Page 2, line 24, Subsection 3 is struck in its entirety and the new effective date is put in of July 1, 1999. Because of that in the applicability section, that also goes up to July instead of October.

CHAIRMAN HERTEL said the sponsor has indicated to him that these amendments are in agreement with his views. Maybe not all parties are satisfied but that may just be the way it is. He knows that they have worked together.

SEN. BEA MCCATHY asked about the time line. Mr. Campbell said that issue was not addressed in these amendments. **SEN. MCCARTHY** wanted to make an amendment, but **Mr. Carl Schweitzer**, representing the subcontractors said there is another bill coming through and is sponsored by **SENATOR BILL GLASER**. That bill addresses this issue. He would follow the bill and make sure if that bill does not pass through, he will get an amendment on this bill to take care of that time line.

SEN. VICKI COCCHIARELLA offered an amendment that would have the contractors pay interest back to the subcontractors if they had put up money in a retainage fee.

SEN. HERTEL expressed his dismay that since this bill had been heard on January 27, 1999, why has this amendment not been brought forward before today. He had visited with Carl and the sponsor and was very uneasy to go ahead with this amendment without the sponsor not even being made aware of this new amendment.

SEN. COCCHIARELLA said that she would wait and let them work it out on the floor.

Vote: Motion that SB 240 BE AMENDED carried unanimously. 7-0

Motion/Vote: **SEN. MCCARTHY** moved that SB 240 DO PASS AS AMENDED. Motion carried unanimously. 7-0

{Tape : 2; Side : A; Approx. Time Counter : 22.7}

EXECUTIVE ACTION ON SB 331

Motion/Vote: SEN. MCCARTHY moved that SB 331 DO PASS. Motion carried unanimously. 7-0

EXECUTIVE ACTION ON SB 275

Motion: SEN. ROUSH moved that SB 275 DO PASS.

Discussion: Motion: SEN. SPRAGUE moved that SB 275 BE AMENDED.

Discussion: Mr. Campbell explained the amendments EXHIBIT(bus34a14).

The first is Number 3, page 1, line 26 which would require the lists to be obtained quarterly. On page 2, following line 3, there would be a new Subsection 4 stating that it would not prohibit telephone calls thatexisting business relationship. And effective date of July 1, 1999 was set.

Vote: Motion that SB 275 BE AMENDED carried unanimously. 7-0

Motion: SEN. THOMAS moved that SB 275 DO PASS AS AMENDED.

Discussion: SEN. COCCHIARELLA said that this bill would be too cumbersome for political parties, charitable groups, nonprofit groups and others. She felt that what was needed more than anything was the education of the public. There are several ways right now that people can get their names off calling lists. This is an important issue, but this bill, as presented, is not the way. SEN. MCCARTHY agreed with SEN. COCCHIARELLA.

SEN. SPRAGUE said that there is value in the bill and it was supported by the Secretary of State, but possibly the unintended consequences in some of the punitive damages, etc. may be more harmful than the good the bill would bring.

Motion/Vote: SEN. COCCHIARELLA moved that SB 275 BE TABLED. Motion carried 5-2 with SENATORS THOMAS AND SPRAGUE voting no.

{Tape : 2; Side : A; Approx. Time Counter : 37}

EXECUTIVE ACTION ON SB 373

Motion: SEN. MCCARTHY moved that SB 373 DO NOT PASS.

Discussion: SEN. SPRAGUE said that he did not use ATM's but people have to pay for conveniences. SEN. MCCARTHY said that she

DATE 2-11-77

[illegible]



SENATE STANDING COMMITTEE REPORT

February 11, 1999

Page 1 of 1

Mr. President:

We, your committee on **Business and Industry** report that **Senate Bill 331** (first reading copy -- white) **do pass**.

Signed: *Sen J Hertel*
Senator John Hertel, Chair

- END -

Committee Vote:
Yes 7, No 0.

sm

341216SC.sjo

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Business and Labor -

01:05 PM

-
- SB 319** **SPONSOR:** Holden, Ric **SHORT TITLE:** Allow marriage discounts for auto insurance
 REFERRED ON: 02/16/1999 **HEARD ON:** 03/09/1999
 TABLED ON: 03/25/1999
 FINAL DISPOSITION 04/22/1999 (H) Died in Standing Committee
-
- SB 331** **SPONSOR:** Shea, Debbie **SHORT TITLE:** Revise snowmobile, atv, & personal water craft sales, franchise, warranty law
 REFERRED ON: 02/16/1999 **HEARD ON:** 03/19/1999
 EXECUTIVE ACTION: 03/22/1999 Bill Concurred -- **VOTE:** 14 - 4
 FINAL DISPOSITION 04/22/1999 Chapter Number Assigned
-
- SB 347** **SPONSOR:** Stang, Spook **SHORT TITLE:** Revise insurance laws on small employer health reinsurance program
 REFERRED ON: 02/16/1999 **HEARD ON:** 03/02/1999
 EXECUTIVE ACTION: 03/02/1999 Bill Concurred -- **VOTE:** 15 - 0
 FINAL DISPOSITION 03/19/1999 Chapter Number Assigned
-
- SB 351** **SPONSOR:** Jergeson, Greg **SHORT TITLE:** Allow certain organization 2 cash prize casino nights per year
 REFERRED ON: 02/20/1999 **HEARD ON:** 03/11/1999
 EXECUTIVE ACTION: 03/11/1999 Bill Concurred -- **VOTE:** 18 - 0
 FINAL DISPOSITION 03/25/1999 Chapter Number Assigned
-
- SB 365** **SPONSOR:** Mohl, Arnie **SHORT TITLE:** Clarify certain terms used in prevailing wage law for public contracts
 REFERRED ON: 03/02/1999 **HEARD ON:** 03/22/1999
 EXECUTIVE ACTION: 03/22/1999 Bill Concurred -- **VOTE:** 18 - 0
 FINAL DISPOSITION 04/12/1999 Chapter Number Assigned
-
- SB 367** **SPONSOR:** Thomas, Fred **SHORT TITLE:** Revise and clarify new motor vehicle warranty laws
 REFERRED ON: 03/02/1999 **HEARD ON:** 03/18/1999
 EXECUTIVE ACTION: 03/23/1999 Bill Concurred as Amended -- **VOTE:** 15 - 3
 FINAL DISPOSITION 04/16/1999 Chapter Number Assigned
-
- SB 369** **SPONSOR:** Miller, Ken **SHORT TITLE:** Revise law relating to conversion of certain group insurance plans
 REFERRED ON: 02/22/1999 **HEARD ON:** 03/12/1999
 EXECUTIVE ACTION: 03/12/1999 Bill Concurred -- **VOTE:** 18 - 0
 FINAL DISPOSITION 04/06/1999 Chapter Number Assigned
-

SENATE BILL NO. 331

INTRODUCED BY D. SHEA

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW RELATING TO THE FRANCHISING, SALE, AND WARRANTY OF PERSONAL WATERCRAFT, SNOWMOBILES, AND OFF-HIGHWAY VEHICLES; AND AMENDING SECTIONS 23-2-619, 23-2-818, 61-4-201, 61-4-202, 61-4-204, 61-4-205, 61-4-222, AND 61-4-402, ~~AND 61-4-501~~, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Personal watercraft dealers -- additional registration requirements.

In addition to the requirements of 23-2-513, to qualify as a dealer, the applicant, when registering or renewing a registration, shall:

(1) complete an application:

(a) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed;

(b) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(c) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and

(d) stating the name and make of all personal watercraft handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement;

(2) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any personal watercraft offered for demonstration or loan to a customer;

(3) execute a certificate to the effect that the applicant has a permanent building for the display and sale of personal watercraft at the location of the premises where sales are conducted;

(4) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of personal watercraft; and

(5) execute a certificate to the effect that the applicant is a bona fide dealer in personal watercraft and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in personal watercraft.

Section 2. Section 23-2-619, MCA, is amended to read:

"23-2-619. Dealer registration certificate -- use of fees. (1) (a) A dealer registration certificate must be issued in accordance with 23-2-601 through 23-2-644.

(b) To qualify as a dealer the applicant, when registering or renewing a registration, shall:

(i) complete an application:

(A) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed;

(B) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(C) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and

(D) stating the name and make of all snowmobiles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement;

(ii) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any snowmobile offered for demonstration or loan to a customer;

(iii) execute a certificate to the effect that the applicant has a permanent building for the display and sale of snowmobiles at the location of the premises where sales are conducted;

(iv) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of snowmobiles; and

1 (v) execute a certificate to the effect that the applicant is a bona fide dealer in snowmobiles and
2 that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in snowmobiles.

3 (2) The dealer application must be accompanied by an application fee of \$5 and a registration fee
4 of \$5. Upon receipt of the dealer application and payment of fees, the dealer ~~shall~~ must be issued two
5 dealer snowmobile identification cards that must be carried by the dealer or the dealer's customer when
6 demonstrating the dealer's snowmobiles.

7 (3) (a) A dealer shall file a bond is not required of the dealer in the amount of \$5,000.

8 (b) The bond must be conditioned that the applicant shall conduct business in accordance with
9 the requirements of the law. The bond must run to the state of Montana, must be approved by the
10 department and filed in its office, and must be renewed annually.

11 (c) A person who suffers loss or damage because of the unlawful conduct of a dealer registered
12 under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the
13 bond. Before payment on the bond is required, the judgment must determine a specific loss or damage
14 amount and conclude that the dealer's unlawful operation caused the loss or damage.

15 (4) The dealer shall have a principal place of business where the dealer ~~shall maintain~~ maintains
16 all business records and ~~display and sell~~ where the dealer displays and sells merchandise.

17 (5) An applicant for renewal of a snowmobile dealer registration shall certify that the applicant
18 has sold five or more snowmobiles during the preceding year or pay an additional \$50 renewal registration
19 fee or provide a copy of a written new snowmobile franchise or sales agreement that the applicant has
20 with a manufacturer, importer, or distributor.

21 (6) Additional dealer snowmobile identification cards as required by need justified to the
22 department of justice may be purchased by the dealer for a fee of \$2.

23 (7) Dealer registration certificates and identification cards expire on June 30 following the date
24 of issuance.

25 (8) (a) The dealer application fees and all interest accruing from use of this money must be
26 deposited in the state special revenue fund to the credit of the department, with one-half designated for
27 use in enforcing the purposes of 23-2-601 through 23-2-644 and one-half designated for use in the
28 development, maintenance, and operation of snowmobile facilities.

29 (b) All money collected from dealer registration and renewal registration fees must be deposited
30 in the general fund."

1

2 **Section 3.** Section 23-2-818, MCA, is amended to read:

3 **"23-2-818. Dealer registration certificate -- use of fees.** (1) (a) Unless the dealer is licensed under
4 the provisions of 61-4-101, a dealer may not sell off-highway vehicles unless ~~he~~ the dealer has first
5 obtained a dealer registration certificate from the department of justice under the provisions of this
6 section.

7 (b) To qualify as a dealer the applicant, when registering or renewing a registration, shall:

8 (i) complete an application:

9 (A) stating the name under which the business is to be conducted and the location of the
10 premises (street address, city, county, and state) where records are kept, sales are made, and stock is
11 displayed;

12 (B) stating the name, address, date of birth, and social security number of all owners or persons
13 having an interest in the business, provided that in the case of a corporation, the names and addresses
14 of the president and secretary are sufficient;

15 (C) identifying other dealerships owned by the applicant, identifying all persons in Montana or in
16 another state having an interest in another dealership owned by the applicant, and disclosing whether the
17 applicant or any other person with interest in a dealership owned by the applicant has been convicted of
18 a felony; and

19 (D) stating the name and make of all off-highway vehicles handled and the name and address of
20 the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales
21 agreement;

22 (ii) provide an affidavit certifying that the applicant has acquired and shall maintain liability
23 insurance for any off-highway vehicle offered for demonstration or loan to a customer;

24 (iii) execute a certificate to the effect that the applicant has a permanent building for the display
25 and sale of off-highway vehicles at the location of the premises where sales are conducted;

26 (iv) execute a certificate to the effect that the applicant has a bona fide service department for
27 the repair, service, and maintenance of off-highway vehicles; and

28 (v) execute a certificate to the effect that the applicant is a bona fide dealer in off-highway
29 vehicles and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in
30 off-highway vehicles.

1 (2) The dealer application for registration or renewal of registration must be accompanied by an
2 application or renewal fee of \$5 and a registration fee of \$5. To qualify for the fees in this subsection,
3 the applicant for renewal shall certify that ~~he~~ the applicant has sold three or more off-highway vehicles
4 during the preceding year. Upon receipt of the dealer application or renewal and payment of fees, the
5 dealer must be issued two dealer off-highway identification cards to be carried by the dealer or the
6 dealer's customer when demonstrating the dealer's off-highway vehicles. Additional dealer off-highway
7 vehicle identification cards may be purchased by the dealer from the department of justice for a fee of
8 \$2 each.

9 (3) (a) ~~No A bond is required of the dealer~~ dealer shall file a bond in the amount of \$5,000.

10 (b) The bond must be conditioned that the applicant shall conduct business in accordance with
11 the requirements of the law. The bond must run to the state of Montana, must be approved by the
12 department and filed in its office, and must be renewed annually.

13 (c) A person who suffers loss or damage because of the unlawful conduct of a dealer registered
14 under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the
15 bond. Before payment on the bond is required, the judgment must determine a specific loss or damage
16 amount and conclude that the dealer's unlawful operation caused the loss or damage.

17 (4) The dealer shall have a principal place of business where ~~he~~ the dealer maintains all ~~his~~
18 business records and where ~~he~~ the dealer displays and sells merchandise.

19 (5) An applicant for renewal of an off-highway vehicle dealer registration who does not qualify
20 under subsection (2) shall:

21 (a) pay an additional \$50 renewal registration fee; and

22 (b) provide a copy of a new off-highway vehicle franchise or sales agreement that ~~he~~ the
23 applicant has with a manufacturer, importer, or distributor.

24 (6) Dealer registration certificates and identification cards expire on December 31 following the
25 date of issuance.

26 (7) (a) The dealer application fees and all interest accruing from use of this money must be
27 deposited in the general fund to be used by the department of justice for the administration of this part.

28 (b) All dealer registration fees and renewal fees collected must be deposited in the account
29 provided in 23-2-804(3). This money and the interest earned on it must be used for off-highway vehicle
30 safety and education programs."

Section 4. Section 61-4-201, MCA, is amended to read:

"61-4-201. Definitions. As used in this part, the following definitions apply unless the context clearly indicates otherwise:

(1) "Community" means the relevant market area of a franchise. For the purposes of this part, the relevant market area of a franchise is the county or counties in which the franchisee is located.

(2) "Distributor" or "wholesaler" means a person who sells or distributes new motor vehicles to new motor vehicle dealers in this state or who maintains distributor representatives in this state.

(3) "Distributor branch" means a branch office maintained or availed of by a distributor or wholesaler for the sale of new motor vehicles to new motor vehicle dealers in this state for directing or supervising its representatives in this state.

(4) "Factory branch" means a branch office maintained or availed of by a manufacturer for the sale of new motor vehicles to distributors or for the sale of new motor vehicles to new motor vehicle dealers in this state or for directing or supervising its representatives in this state.

(5) "Franchise" means a contract between or among two or more persons when all of the following conditions are included:

(a) a commercial relationship of definite duration or continuing indefinite duration is involved;

(b) the franchisee is granted the right to offer, sell, and service in this state new motor vehicles manufactured or distributed by the franchisor;

(c) the franchisee, as a separate business, constitutes a component of franchisor's distribution system; and

(d) the operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of new motor vehicles, parts, and accessories.

(6) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise and who offers, sells, and services ~~such~~ the new motor vehicles to and for the general public.

(7) "Franchisor" means a person who manufactures, imports, or distributes new motor vehicles and who may enter into a franchise.

(8) "Importer" means a person who transports or arranges for the transportation of a foreign manufactured new motor vehicle into the United States for sale in this state.

(9) "Manufacturer" means a person who manufactures or assembles new motor vehicles or who

1 manufactures or installs on previously assembled truck chassis special bodies or equipment that, when
2 installed, forms an integral part of the new motor vehicle and that constitutes a major manufacturing
3 alteration, but does not include a person who installs a camper on a pickup truck.

4 (10) "Motor vehicle" includes a personal watercraft as defined in 23-2-502, a snowmobile as
5 defined in 23-2-601, and an off-highway vehicle as defined in 23-2-801.

6 ~~11~~(11) "New motor vehicle" means a motor vehicle that has not been the subject of a retail sale
7 regardless of the mileage of the vehicle.

8 ~~12~~(12) "New motor vehicle dealer" means a person who buys, sells, exchanges, or offers or
9 attempts to negotiate a sale or exchange or any interest in or who is engaged in the business of selling
10 new motor vehicles under a franchise with the manufacturer of the new motor vehicles or used motor
11 vehicles taken in trade on new motor vehicles.

12 ~~13~~(13) (a) "Retail sale" means the sale of a new motor vehicle.

13 (b) "Retail sale" does not mean a sale:

14 (i) of a new motor vehicle to a purchaser who is acquiring the vehicle for the purposes of a resale;

15 or

16 (ii) that is the result of a transfer between two licensed new motor vehicle dealers."

17
18 Section 5. Section 61-4-202, MCA, is amended to read:

19 "61-4-202. License requirements -- fee exemption. (1) ~~No~~ A new motor vehicle dealer,
20 manufacturer, distributor, factory branch, ~~or distributor branch, importer, or franchiser~~ may not engage
21 in business in Montana except in accordance with the requirements of this part. The provisions of this part
22 do not apply to a public officer engaged in the discharge of ~~his~~ official duties or to a trustee, receiver, or
23 other officer acting under the jurisdiction of a court, ~~to~~ financial institutions disposing of repossessed
24 vehicles, ~~or to a person disposing of his~~ a personal vehicle. The provisions of this part regulating and
25 licensing new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches,
26 importers, and franchisors apply only to those new motor vehicle dealers, manufacturers, distributors,
27 factory branches, distributor branches, importers, and franchisors of motor vehicles as defined by this
28 part.

29 (2) (a) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor
30 transacting business within Montana by offering, selling, trading, consigning, or otherwise transferring

1 a new motor vehicle to a new motor vehicle dealer must be licensed by the state of Montana. The
2 department shall issue licenses to qualified applicants upon receipt of a license fee in the amount of \$15
3 accompanied by the information required in this section.

4 (b) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor of a
5 personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, or an off-highway
6 vehicle as defined in 23-2-801 is not required to pay the \$15 fee required in subsection (2)(a).

7 (3) The following information, if applicable, ~~shall~~ must be submitted by an applicant upon forms
8 supplied by the department:

9 (a) the name and address of the applicant;

10 (b) the make and model of each new motor vehicle to be franchised;

11 (c) the name and address of each of the applicant's franchisees within the state; and

12 (d) the name and address of each factory branch, distributor branch, agent, or representative
13 within the state.

14 (4) (a) The Except as provided in subsection (4)(b), a license may be renewed each year if the
15 applicant is in compliance with the provisions of this part, remits a renewal fee in the amount of \$15, and
16 notifies the department of any changes in the information previously supplied.

17 (b) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor of a
18 personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, or an off-highway
19 vehicle as defined in 23-2-801 is not required to pay the \$15 fee required in subsection (4)(a) but is
20 required to annually apply to renew its license on a form provided by the department.

21 (5) (a) No A new motor vehicle may not be sold in this state unless either the manufacturer on
22 direct dealership of domestic vehicles, the importer of foreign manufactured vehicles on direct dealership,
23 or the distributor on indirect dealerships of either domestic or foreign vehicles is licensed as provided in
24 this part.

25 (b) Notwithstanding any other licensing provision contained in Montana law, every new motor
26 vehicle dealer ~~must~~ shall obtain a license under part 1 of this chapter.

27 (c) The obtaining of a license under this part or Title 61, chapter 4, part 1 conclusively establishes
28 that a new motor vehicle dealer, manufacturer, distributor, or importer is subject to the laws of this state
29 regulating new motor vehicle dealers, manufacturers, importers, and distributors.

30 (d) The provisions of subsection (5)(b) do not apply to dealers of personal watercraft.

1 snowmobiles, or off-highway vehicles licensed under the provisions of Title 23."

2

3 Section 6. Section 61-4-204, MCA, is amended to read:

4 "61-4-204. Filing agreement -- product liability. (1) A franchisee ~~must~~ shall, at the time ~~he~~ the
5 franchisee applies for a new motor vehicle dealer license under the provisions of Title 23 or 61-4-101, file
6 with the department a certified copy of ~~his~~ the franchisee's written agreement with a manufacturer and
7 a certificate of appointment as dealer or distributor. The certificate of appointment must be signed by an
8 authorized agent of the manufacturer of domestic vehicles whenever there is a direct manufacturer dealer
9 agreement or by an authorized agent of the distributor whenever the manufacturer is wholesaling through
10 an appointed distributorship. The certificate must be signed by an authorized agent of the importer of
11 foreign made vehicles whenever there is a direct importer-dealer agreement or by an authorized agent of
12 the distributor whenever there is an indirect distributor-dealer agreement. The distributor's certificate of
13 appointment must be signed by an authorized agent of the manufacturer of domestically manufactured
14 vehicles or by an authorized agent of the manufacturer or importer of foreign made vehicles.

15 (2) A franchisee need not file a written agreement or certificate of appointment if the
16 manufacturer on direct dealerships or distributor on indirect dealerships or importer on direct dealerships
17 uses the identical basic agreement for all its franchised dealers or distributors in this state and certifies
18 in the certificate of appointment that the blanket agreement is on file and the written agreement with the
19 particular dealer or distributor, respectively, is identical with the filed blanket agreement and that ~~he~~ the
20 franchisee has filed with the department one ~~such~~ agreement together with a list of franchised dealers
21 or distributors.

22 (3) A manufacturer, distributor, or importer shall notify the department within 30 days of any
23 revision of or addition to the basic agreement on file or of any franchise supplement to the agreement.
24 Annual renewal of a certificate filed as provided in this section is not required.

25 (4) A manufacturer ~~must~~ shall file with the department a copy of the delivery and preparation
26 obligations required to be performed by a dealer prior to the delivery of a new motor vehicle to a buyer.
27 These delivery and preparation obligations constitute the dealer's only responsibility for product liability
28 as between the dealer and the manufacturer. Any mechanical, body, or parts defects arising from an
29 express or implied warranty of the manufacturer constitute the manufacturer's product or warranty
30 liability only; provided, however, that this section ~~shall~~ may not affect the obligations of new motor

1 vehicle dealers to perform ~~such~~ warranty repair and maintenance as may be required by law or contract.
2 Except ~~as regards~~ with regard to household appliances, including but not limited to ranges, refrigerators,
3 and water heaters, in a recreational vehicle, as defined in 61-1-132, and except ~~as regards~~ with regard
4 to a truck rated at more than 10,000 pounds gross vehicle weight, the manufacturer ~~must~~ shall
5 compensate an authorized dealer for labor, parts, and other expenses incurred by a dealer who performs
6 work to rectify the manufacturer's product or warranty defect or for delivery and preparation obligations
7 at the same rate and time the dealer charges to its retail customers for nonwarranty work of a like kind,
8 based upon a published, nationally recognized, retail flat rate labor time guide manual if the dealer uses
9 the manual as the basis for computing charges for both warranty and retail work.

10 (5) The dealer ~~must~~ shall furnish the purchaser of a new vehicle with a signed copy of the
11 manufacturer's delivery and preparation requirements indicating that each of those requirements has been
12 performed."

13

14 Section 7. Section 61-4-205, MCA, is amended to read:

15 "61-4-205. Limitations on cancellation and termination. (1) Notwithstanding the terms, provisions,
16 or conditions of any agreement or franchise, a franchisor may not cancel, terminate, or refuse to continue
17 a franchise unless the franchisor has cause for termination or noncontinuance.

18 (2) A franchisor may not enter into a franchise for the purpose of establishing an additional new
19 motor vehicle dealership in any community in which the same line-make is then represented unless there
20 is good cause for an additional new motor vehicle dealership under a franchise and ~~that~~ it is in the public
21 interest.

22 (3) If a franchisor seeks to terminate or not continue a franchise or seeks to enter into a franchise
23 establishing an additional new motor vehicle dealership of the same line-make, the franchisor shall, not
24 less than 60 days prior to the intended action, and the franchisee may, at any time, file a notice with the
25 department of intention to terminate or not continue the franchise or to enter into a franchise for
26 additional representation of the same line-make. A notice of intention to terminate or not continue a
27 franchise is not required from a franchisor until the conclusion of any review proceeding of that intention
28 offered to the franchisee under the franchise. This section does not apply to an intended termination or
29 noncontinuance of a franchise that the franchisee elects voluntarily, pursuant to a plan established by a
30 franchisor, to submit to binding arbitration.

1 (4) Upon receiving a notice of intention under the provisions of subsection (3), the department
2 shall, within 5 days of receipt of a notice of intention, send by certified mail, with return receipt
3 requested, a copy of the notice to the franchisor and to the franchisee whose franchise the franchisor
4 seeks to establish, terminate, or not continue. If the notice states an intent to establish an additional new
5 motor vehicle dealership, a copy of the notice must be sent within 5 days of receipt to all franchisees in
6 the community who are then engaged in the business of offering to sell or selling the same line-make.
7 Copies of notices must be addressed to the principal place of business of each recipient and to the
8 statutory agent of each corporate recipient. The department may also give a copy of the franchisor's
9 notice to any other parties whom the department may consider interested persons.

10 (5) In instances where the change in ownership has the effect of the sale of the franchise, the
11 franchisor may not without good cause withhold its consent to the sale. Good cause relates only to the
12 transferee's financial and managerial capabilities or to the inability of the transferee to comply with a
13 state or federal law relating to new motor vehicle dealerships. The burden of establishing good cause is
14 upon the franchisor.

15 (6) Notwithstanding the terms, provisions, or conditions of an agreement or franchise, in the
16 event of the sale or transfer of ownership of the franchisee's dealership by sale or transfer of the business
17 or by stock transfer to the dealer's or wholesaler's spouse, son, or daughter, the franchisor shall give
18 effect to the sale or transfer of ownership in the franchise unless the transfer of the franchisee's new
19 motor vehicle dealer's or wholesaler's license is denied or the new owner is unable to obtain a license
20 under the laws of this state.

21 (7) If a franchisor enters into or attempts to enter into a franchise, whether upon termination or
22 refusal to continue another franchise or upon the establishment of an additional new motor vehicle
23 dealership in a community where the same line-make is then represented, without first complying with
24 the provisions of this part, a license under Title 23 or 61-4-101 through 61-4-105 may not be issued to
25 that franchisee or proposed franchisee to engage in the business of selling new motor vehicles
26 manufactured or distributed by that franchisor."

27

28 Section 8. Section 61-4-222, MCA, is amended to read:

29 "61-4-222. Fees. (1) Upon making the application required under 61-4-221, the manufacturer
30 shall pay to the department a fee of \$250, which entitles the manufacturer to one set of number plates,

1 and an additional fee of \$20 for each additional set of number plates. The manufacturer may receive one
2 set of number plates for each manufacturer's representative.

3 (2) The fees provided for in subsection (1) do not apply to the manufacturer of a personal
4 watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, or an off-highway vehicle as
5 defined in 23-2-801."

6
7 **Section 9.** Section 61-4-402, MCA, is amended to read:

8 **"61-4-402. Definitions.** (1) "Finance company" or "finance agency" ~~shall mean any~~ means a
9 person, firm, association, corporation, or other organization engaged in the business of buying, selling,
10 assigning, dealing, financing, or acquiring conditional contracts of sale or engaged in the business of
11 purchasing or acquiring promissory notes or any other form or evidences of indebtedness of sale, either
12 secured by vendor's lien, conditional bill of sale, chattel mortgage, or leases arising out of the sale of
13 motor vehicles in this state.

14 (2) The term "manufacturer" ~~shall mean any~~ means a person, firm, corporation, partnership, or
15 association engaged either directly or indirectly in the manufacture or wholesale distribution of motor
16 vehicles.

17 (3) The term "motor vehicle", as used in this part, includes a personal watercraft as defined in
18 23-2-502, a snowmobile as defined in 23-2-601, and an off-highway vehicle as defined in 23-2-801.

19 ~~{3}~~(4) The terms "sell", "sold", "buy", and "purchase", as used in this part, include exchange,
20 barter, gift, and offer or contract to sell or buy.

21 ~~{4}~~(5) The term "wholesale distributor" ~~shall mean any~~ means a person, firm, association,
22 corporation, or other organization engaged directly or indirectly in the sale or distribution of motor vehicles
23 to agents or to dealers."

24
25 ~~Section 10.~~ Section 61-4-501, MCA, is amended to read:

26 ~~"61-4-501. Definitions. For purposes of this part, the following definitions apply:~~

27 ~~(1) "Collateral charge" means all governmental charges, including but not limited to sales tax,~~
28 ~~property tax, license and registration fees, and fees in lieu of tax.~~

29 ~~(2) "Consumer" means the purchaser, other than for purposes of resale, of a motor vehicle that~~
30 ~~has not been brought into nonconformity as the result of abuse, neglect, or unauthorized modifications~~

1 ~~or alterations by the purchaser, any person to whom the motor vehicle is transferred during the duration~~
2 ~~of an express warranty applicable to the motor vehicle, or any other person entitled by the terms of the~~
3 ~~warranty to the benefits of its provisions.~~

4 ~~—— (3) "Incidental damage" means incidental and consequential damage as defined in 30-2-715.~~

5 ~~—— (4) "Manufacturer" has the meaning applied to that word in 61-4-201.~~

6 ~~—— (5) (a) "Motor vehicle" means a vehicle, including the nonresidential portion of a motor home as~~
7 ~~defined in 61-1-130, propelled by its own power, designed primarily to transport persons or property upon~~
8 ~~the public highways, and sold in this state. The term also includes a personal watercraft as defined in~~
9 ~~23-2-502, a snowmobile as defined in 23-2-601, and an off-highway vehicle as defined in 23-2-801.~~

10 ~~—— (b) The term does not include a truck with 10,000 pounds or more gross vehicle weight rating~~
11 ~~or a motorcycle as defined in 61-1-105. Motor vehicle does not include components, systems, fixtures,~~
12 ~~appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for~~
13 ~~residential purposes.~~

14 ~~—— (6) "Reasonable allowance for use" is an amount directly attributable to use of the motor vehicle~~
15 ~~by the consumer and any previous consumers prior to the first written notice of the nonconformity to the~~
16 ~~manufacturer or its agent and during any subsequent period when the vehicle is not out of service~~
17 ~~because of nonconformity. The reasonable allowance for use shall must be computed by multiplying the~~
18 ~~total contract price of the vehicle by a fraction having as its denominator 100,000 and having as its~~
19 ~~numerator the number of miles that the vehicle traveled prior to the manufacturer's acceptance of its~~
20 ~~return.~~

21 ~~—— (7) "Warranty period" means the period ending 2 years after the date of the original delivery to~~
22 ~~the consumer of a new motor vehicle or during the first 18,000 miles of operation, whichever is earlier."~~

23

24 NEW SECTION. Section 10. Codification instruction. [Section 1] is intended to be codified as an
25 integral part of Title 23, chapter 2, part 5, and the provisions of Title 23, chapter 2, part 5, apply to
26 [section 1].

27

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By CHAIRMAN BRUCE SIMON, on March 19, 1999 at
8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: Rep. Roy Brown (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 331, SB 453, SB 419, SB
446, SB 452. SB 410, 3/3/1999
Executive Action: SB 452, SB 419

Questions from Committee Members and Responses: Reps. Ewer, Lawson, Bookout, Krenzler, Pavlovich and Simon question witnesses.

{Tape : 3; Side : B; Approx. Time Counter : 79 - 201}

Closing by Sponsor: Senator Beck closed SB 453. Rep. Ohs to carry on house floor.

{Tape : 3; Side : B; Approx. Time Counter : 201 - 328}

HEARING ON SB 419

Opening Statement by Sponsor: Senator Shea, SD 18, introduced SB 419.

{Tape : 3; Side : B; Approx. Time Counter : 328 - 346}

Proponents' Testimony: Jim Oppedahl, Administrator of Gambling Division, Dept. of Justice.

{Tape : 3; Side : B; Approx. Time Counter : 346 - 369}

Rich Griffith, Butte airport employee

{Tape : 3; Side : B; Approx. Time Counter : 369 - 380}

Opponents' Testimony: None

Questions from Committee Members and Responses: Rep. Krenzler questions Sen. Shea.

{Tape : 3; Side : B; Approx. Time Counter : 380 - 428}

Closing by Sponsor: Senator Shea closed SB 419.

{Tape : 3; Side : B; Approx. Time Counter : 428 - 430}

HEARING ON SB 331

Opening Statement by Sponsor: Senator Shea, SD 18 introduced SB 331.

{Tape : 3; Side : B; Approx. Time Counter : 430 - 462}

Proponents' Testimony: Matt Kershaw, Pres of Sports Dealers Assn.

{Tape : 3; Side : B; Approx. Time Counter : 462 - 500}

{Tape : 4; Side : A; Approx. Time Counter : 0 - 11}

Helena Cycle Stadium, Brad Middleslice.

{Tape : 4; Side : A; Approx. Time Counter : 11 - 46}

Cliff Gullett, Team Bozeman EXHIBIT(6) EXHIBIT(7)
{Tape : 4; Side : A; Approx. Time Counter : 46 - 85}

Opponents' Testimony: None

Informational Testimony: Mr. Roberts, Dept. of Justice
{Tape : 4; Side : A; Approx. Time Counter : 85 - 90}

Ken Hoovestall, Montana Snowmobilers
{Tape : 4; Side : A; Approx. Time Counter : 90 - 92}

Questions from Committee Members and Responses: Rep. Bookout
questions Gullett.
{Tape : 4; Side : A; Approx. Time Counter : 92 - 103}

Closing by Sponsor: Senator Shea closed SB 331. Rep. Hibbard to
carry on house floor.
{Tape : 4; Side : A; Approx. Time Counter : 103 - 120}

EXECUTIVE ACTION ON SB 419

Motion/Vote: REP. PAVLOVICH moved that SB 419 BE CONCURRED IN.
Motion carried unanimously.
{Tape : 4; Side : A; Approx. Time Counter : 120 - 140}

01/27/99 10:52 FAX 1-408-727-7484

SPORTS CITY CYCL

01

From: Div. Sea-Doo/Sid-Doo To: SEA DOO US 20 A

Date: 01-20 Time: 16:54:22

DE : Bombardier

NO FAX : 4595328877

Page 1 of 1

15:36 P.81

**BOMBARDIER
RECREATIONAL PRODUCTS**

Bombardier Recreational Products is America's
730 E. Stoughton Avenue
McBroom, FL 32061 United States
Telephone: (407) 722-4000
Fax: (407) 722-4678
<http://www.recreation.bombardier.com>

Dear Sea-Doo Dealer,

Enthusiasm for our 1999 Watercraft & Sport Boat lineups has created a shortfall in our production schedule for certain models. In order to maintain your '99 program levels and benefits, your District Manager will be contacting you within the next 2 weeks with a list of available models to substitute for the shortage. Available inventory will include select '99 models as well as some '98 products, now featuring expanded rebates.

We will continue our commitment to lowering inventories and maximizing profitability by supporting non-current product with industry leading incentives throughout the 1999 season.

Sincerely,

Henry Lonak
Henry Lonak

E 7
D 3/19/99
S 331

March 9, 1999

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

-Revised-

Mr. Cliff Gullet
Team Bozeman
403 N. 7th
Bozeman, MT 59715

Dear Mr. Gullet:

We recently reviewed your performance as a Kawasaki "Jet Ski" watercraft dealer and have determined that you are not fulfilling your obligations, particularly with respect to inventories, sales, advertising and promotion.

We believe that your dealership should be able to buy, retail or have in inventory a minimum of five (5)* Jet Ski Watercraft.

In the event that the above is not accomplished by June 15, 1999, we will consider taking further action with respect to the Sales and Service Agreement relating to Jet Ski products.

Sincerely,



Paul Bailey
Regional Sales Manager

PB:dh

*Revised amount

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL

DATE 3/19/99

NAME	PRESENT	ABSENT	EXCUSED
Chairman Bruce Simon	X		
Rep. Paul Sliter	X		
Rep. Bob Pavlovich	X		
Rep. Joe Barnett	X		
Rep. Rod Bitney	X		
Rep. Sylvia Bookout-Reineke	X		
Rep. Roy Brown			X
Rep. David Ewer	X		
Rep. Billie Krenzler	X		
Rep. Bob Lawson	X		
Rep. Gay Ann Masolo			X
Rep. Gary Matthews			X
Rep. Joe McKenney	X		
Rep. Carolyn Squires	X		
Rep. Jay Stovall	X		
Rep. Carley Tuss	X		
Rep. Carol Juneau	X		
Rep. Cliff Trexler	X		

MONTANA HOUSE OF REPRESENTATIVES VISITORS REGISTER

DATE 3-19-99

BILL NO. SB 331

SPONSOR(S) _____

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE
CIRCLE

NAME

ADDRESS

REPRESENTING

POI	Dan Roberts		Dept of Justice / mvd
POI	Ken Hoores Tol	Helena	MT. Snowmobile Assn
POI	Bordina Vance	Bozeman	MT. P. D. A.
POI	Cliff Gullett	Bozeman	TEAM BOZEMAN MOTORSPORTS
POI	Matt Kesul	BUTTE	REDLINE SPORTS - MPDA
POI	Glenn Middlestead	Helena	Helena Cycle Center
POI			
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POI			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By CHAIRMAN BRUCE SIMON, on March 22, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: Rep. Gay Ann Masolo (R)

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 490, SB 13, SB 365,
3/3/1999

Executive Action: SB 13, SB 365, SB 126, SB 132,
SB 331, SB 399,

EXECUTIVE ACTION ON SB 132

Motion: REP. KRENZLER moved that SB 132 BE CONCURRED IN.

{Tape : 3; Side : A; Approx. Time Counter : 178 - 193}

Motion/Vote: REP. PAVLOVICH moved that SB 132 BE AMENDED. Motion carried unanimously.

{Tape : 3; Side : A; Approx. Time Counter : 193 - 199}

Motion/Vote: REP. SQUIRES moved that SB 132 BE CONCURRED IN AS AMENDED. Motion failed 17-1 with Lawson voting aye.

{Tape : 3; Side : A; Approx. Time Counter : 199 - 203}

EXECUTIVE ACTION ON SB 331

Motion/Vote: REP. KRENZLER moved that SB 331 BE CONCURRED IN.

Motion carried 14-4 with Brown, Ewer, Lawson, and McKenney voting no.

{Tape : 3; Side : A; Approx. Time Counter : 203 - 250}

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL

DATE 3/22/99

NAME	PRESENT	ABSENT	EXCUSED
Chairman Bruce Simon	X		
Rep. Paul Sliter	X		
Rep. Bob Pavlovich	X		
Rep. Joe Barnett	X		
Rep. Rod Bitney	X		
Rep. Sylvia Bookout-Reineke	X		
Rep. Roy Brown	X		
Rep. David Ewer	X		
Rep. Billie Krenzler	X		
Rep. Bob Lawson	X		
Rep. Gay Ann Masolo			X
Rep. Gary Matthews	X		
Rep. Joe McKenney	X		
Rep. Carolyn Squires	X		
Rep. Jay Stovall	X		
Rep. Carley Tuss			
Rep. Carol Juneau	X		
Rep. Cliff Trexler	X		



HOUSE STANDING COMMITTEE REPORT

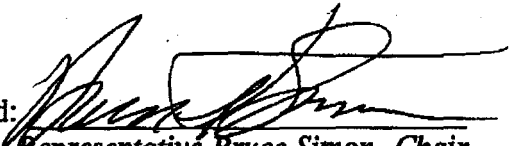
March 22, 1999

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** report that **Senate Bill 331** (third reading copy -- blue) be concurred in.

Signed:


Representative Bruce Simon, Chair

To be carried by Representative Chase Hibbard

- END -

Committee Vote:
Yes 14, No 4.

641251SC.ham

2130
2/3



AN ACT GENERALLY REVISING THE LAW RELATING TO THE FRANCHISING, SALE, AND WARRANTY OF PERSONAL WATERCRAFT, SNOWMOBILES, AND OFF-HIGHWAY VEHICLES; AND AMENDING SECTIONS 23-2-619, 23-2-818, 61-4-201, 61-4-202, 61-4-204, 61-4-205, 61-4-222, AND 61-4-402, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Personal watercraft dealers -- additional registration requirements. Unless the dealer is licensed under the provisions of 61-4-101, in addition to the requirements of 23-2-513, to qualify as a dealer, the applicant, when registering or renewing a registration, shall:

(1) complete an application:

(a) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed;

(b) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(c) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and

(d) stating the name and make of all personal watercraft handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement;

(2) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any personal watercraft offered for demonstration or loan to a customer;

(3) execute a certificate to the effect that the applicant has a permanent building for the display

and sale of personal watercraft at the location of the premises where sales are conducted;

(4) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of personal watercraft; and

(5) execute a certificate to the effect that the applicant is a bona fide dealer in personal watercraft and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in personal watercraft.

Section 2. Section 23-2-619, MCA, is amended to read:

"23-2-619. Dealer registration certificate -- use of fees. (1) (a) ~~A~~ Unless the dealer is licensed under the provisions of 61-4-101, a dealer registration certificate must be issued in accordance with 23-2-601 through 23-2-644.

(b) To qualify as a dealer the applicant, when registering or renewing a registration, shall:

(i) complete an application:

(A) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed;

(B) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(C) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and

(D) stating the name and make of all snowmobiles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement;

(ii) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any snowmobile offered for demonstration or loan to a customer;

(iii) execute a certificate to the effect that the applicant has a permanent building for the display

and sale of snowmobiles at the location of the premises where sales are conducted;

(iv) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of snowmobiles; and

(v) execute a certificate to the effect that the applicant is a bona fide dealer in snowmobiles and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in snowmobiles.

(2) The dealer application must be accompanied by an application fee of \$5 and a registration fee of \$5. Upon receipt of the dealer application and payment of fees, the dealer ~~shall~~ must be issued two dealer snowmobile identification cards that must be carried by the dealer or the dealer's customer when demonstrating the dealer's snowmobiles.

(3) (a) A dealer shall file a bond is not required of the dealer in the amount of \$5,000.

(b) The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually.

(c) A person who suffers loss or damage because of the unlawful conduct of a dealer registered under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. Before payment on the bond is required, the judgment must determine a specific loss or damage amount and conclude that the dealer's unlawful operation caused the loss or damage.

(4) The dealer shall have a principal place of business where the dealer ~~shall maintain~~ maintains all business records and ~~display and sell~~ where the dealer displays and sells merchandise.

(5) An applicant for renewal of a snowmobile dealer registration shall certify that the applicant has sold five or more snowmobiles during the preceding year or pay an additional \$50 renewal registration fee or provide a copy of a written new snowmobile franchise or sales agreement that the applicant has with a manufacturer, importer, or distributor.

(6) Additional dealer snowmobile identification cards as required by need justified to the department of justice may be purchased by the dealer for a fee of \$2.

(7) Dealer registration certificates and identification cards expire on June 30 following the date of issuance.

(8) (a) The dealer application fees and all interest accruing from use of this money must be deposited in the state special revenue fund to the credit of the department, with one-half designated for

use in enforcing the purposes of 23-2-601 through 23-2-644 and one-half designated for use in the development, maintenance, and operation of snowmobile facilities.

(b) All money collected from dealer registration and renewal registration fees must be deposited in the general fund."

Section 3. Section 23-2-818, MCA, is amended to read:

"**23-2-818. Dealer registration certificate -- use of fees.** (1) (a) Unless the dealer is licensed under the provisions of 61-4-101, a dealer may not sell off-highway vehicles unless ~~he~~ the dealer has first obtained a dealer registration certificate from the department of justice under the provisions of this section.

(b) To qualify as a dealer the applicant, when registering or renewing a registration, shall:

(i) complete an application:

(A) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed;

(B) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(C) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and

(D) stating the name and make of all off-highway vehicles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement;

(ii) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any off-highway vehicle offered for demonstration or loan to a customer;

(iii) execute a certificate to the effect that the applicant has a permanent building for the display and sale of off-highway vehicles at the location of the premises where sales are conducted;

(iv) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of off-highway vehicles; and

(v) execute a certificate to the effect that the applicant is a bona fide dealer in off-highway vehicles and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in off-highway vehicles.

(2) The dealer application for registration or renewal of registration must be accompanied by an application or renewal fee of \$5 and a registration fee of \$5. To qualify for the fees in this subsection, the applicant for renewal shall certify that ~~he~~ the applicant has sold three or more off-highway vehicles during the preceding year. Upon receipt of the dealer application or renewal and payment of fees, the dealer must be issued two dealer off-highway identification cards to be carried by the dealer or the dealer's customer when demonstrating the dealer's off-highway vehicles. Additional dealer off-highway vehicle identification cards may be purchased by the dealer from the department of justice for a fee of \$2 each.

(3) (a) ~~No A bond is required of the dealer~~ dealer shall file a bond in the amount of \$5,000.

(b) The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually.

(c) A person who suffers loss or damage because of the unlawful conduct of a dealer registered under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. Before payment on the bond is required, the judgment must determine a specific loss or damage amount and conclude that the dealer's unlawful operation caused the loss or damage.

(4) The dealer shall have a principal place of business where ~~he~~ the dealer maintains all his business records and where ~~he~~ the dealer displays and sells merchandise.

(5) An applicant for renewal of an off-highway vehicle dealer registration who does not qualify under subsection (2) shall:

(a) pay an additional \$50 renewal registration fee; and

(b) provide a copy of a new off-highway vehicle franchise or sales agreement that ~~he~~ the applicant has with a manufacturer, importer, or distributor.

(6) Dealer registration certificates and identification cards expire on December 31 following the

date of issuance.

(7) (a) The dealer application fees and all interest accruing from use of this money must be deposited in the general fund to be used by the department of justice for the administration of this part.

(b) All dealer registration fees and renewal fees collected must be deposited in the account provided in 23-2-804(3). This money and the interest earned on it must be used for off-highway vehicle safety and education programs."

Section 4. Section 61-4-201, MCA, is amended to read:

"**61-4-201. Definitions.** As used in this part, the following definitions apply unless the context clearly indicates otherwise:

(1) "Community" means the relevant market area of a franchise. For the purposes of this part, the relevant market area of a franchise is the county or counties in which the franchisee is located.

(2) "Distributor" or "wholesaler" means a person who sells or distributes new motor vehicles to new motor vehicle dealers in this state or who maintains distributor representatives in this state.

(3) "Distributor branch" means a branch office maintained or availed of by a distributor or wholesaler for the sale of new motor vehicles to new motor vehicle dealers in this state for directing or supervising its representatives in this state.

(4) "Factory branch" means a branch office maintained or availed of by a manufacturer for the sale of new motor vehicles to distributors or for the sale of new motor vehicles to new motor vehicle dealers in this state or for directing or supervising its representatives in this state.

(5) "Franchise" means a contract between or among two or more persons when all of the following conditions are included:

(a) a commercial relationship of definite duration or continuing indefinite duration is involved;

(b) the franchisee is granted the right to offer, sell, and service in this state new motor vehicles manufactured or distributed by the franchisor;

(c) the franchisee, as a separate business, constitutes a component of franchisor's distribution system; and

(d) the operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of new motor vehicles, parts, and accessories.

(6) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise and who offers, sells, and services ~~such~~ the new motor vehicles to and for the general public.

(7) "Franchisor" means a person who manufactures, imports, or distributes new motor vehicles and who may enter into a franchise.

(8) "Importer" means a person who transports or arranges for the transportation of a foreign manufactured new motor vehicle into the United States for sale in this state.

(9) "Manufacturer" means a person who manufactures or assembles new motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment that, when installed, forms an integral part of the new motor vehicle and that constitutes a major manufacturing alteration, but does not include a person who installs a camper on a pickup truck.

(10) "Motor vehicle" includes a personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, and an off-highway vehicle as defined in 23-2-801.

~~(10)~~(11) "New motor vehicle" means a motor vehicle that has not been the subject of a retail sale regardless of the mileage of the vehicle.

~~(11)~~(12) "New motor vehicle dealer" means a person who buys, sells, exchanges, or offers or attempts to negotiate a sale or exchange or any interest in or who is engaged in the business of selling new motor vehicles under a franchise with the manufacturer of the new motor vehicles or used motor vehicles taken in trade on new motor vehicles.

~~(12)~~(13) (a) "Retail sale" means the sale of a new motor vehicle.

(b) "Retail sale" does not mean a sale:

(i) of a new motor vehicle to a purchaser who is acquiring the vehicle for the purposes of a resale;

or

(ii) that is the result of a transfer between two licensed new motor vehicle dealers."

Section 5. Section 61-4-202, MCA, is amended to read:

"61-4-202. License requirements -- fee exemption. (1) ~~No~~ A new motor vehicle dealer, manufacturer, distributor, factory branch, ~~or~~ distributor branch, importer, or franchiser may not engage in business in Montana except in accordance with the requirements of this part. The provisions of this part do not apply to a public officer engaged in the discharge of his official duties or to a trustee, receiver, or

other officer acting under the jurisdiction of a court; to financial institutions disposing of repossessed vehicles; or to a person disposing of ~~his~~ a personal vehicle. The provisions of this part regulating and licensing new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, importers, and franchisors apply only to those new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, importers, and franchisors of motor vehicles as defined by this part.

(2) (a) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor transacting business within Montana by offering, selling, trading, consigning, or otherwise transferring a new motor vehicle to a new motor vehicle dealer must be licensed by the state of Montana. The department shall issue licenses to qualified applicants upon receipt of a license fee in the amount of \$15 accompanied by the information required in this section.

(b) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor of a personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, or an off-highway vehicle as defined in 23-2-801 is not required to pay the \$15 fee required in subsection (2)(a).

(3) The following information, if applicable, ~~shall~~ must be submitted by an applicant upon forms supplied by the department:

- (a) the name and address of the applicant;
- (b) the make and model of each new motor vehicle to be franchised;
- (c) the name and address of each of the applicant's franchisees within the state; and
- (d) the name and address of each factory branch, distributor branch, agent, or representative within the state.

(4) (a) The Except as provided in subsection (4)(b), a license may be renewed each year if the applicant is in compliance with the provisions of this part, remits a renewal fee in the amount of \$15, and notifies the department of any changes in the information previously supplied.

(b) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor of a personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, or an off-highway vehicle as defined in 23-2-801 is not required to pay the \$15 fee required in subsection (4)(a) but is required to annually apply to renew its license on a form provided by the department.

(5) (a) No A new motor vehicle may not be sold in this state unless either the manufacturer on

direct dealership of domestic vehicles, the importer of foreign manufactured vehicles on direct dealership, or the distributor on indirect dealerships of either domestic or foreign vehicles is licensed as provided in this part.

(b) Notwithstanding any other licensing provision contained in Montana law, every new motor vehicle dealer ~~must~~ shall obtain a license under part 1 of this chapter.

(c) The obtaining of a license under this part or Title 61, chapter 4, part 1 conclusively establishes that a new motor vehicle dealer, manufacturer, distributor, or importer is subject to the laws of this state regulating new motor vehicle dealers, manufacturers, importers, and distributors.

(d) The provisions of subsection (5)(b) do not apply to dealers of personal watercraft, snowmobiles, or off-highway vehicles licensed under the provisions of Title 23."

Section 6. Section 61-4-204, MCA, is amended to read:

"61-4-204. Filing agreement -- product liability. (1) A franchisee ~~must~~ shall, at the time ~~he~~ the franchisee applies for a new motor vehicle dealer license under the provisions of Title 23 or 61-4-101, file with the department a certified copy of ~~his~~ the franchisee's written agreement with a manufacturer and a certificate of appointment as dealer or distributor. The certificate of appointment must be signed by an authorized agent of the manufacturer of domestic vehicles whenever there is a direct manufacturer dealer agreement or by an authorized agent of the distributor whenever the manufacturer is wholesaling through an appointed distributorship. The certificate must be signed by an authorized agent of the importer of foreign made vehicles whenever there is a direct importer-dealer agreement or by an authorized agent of the distributor whenever there is an indirect distributor-dealer agreement. The distributor's certificate of appointment must be signed by an authorized agent of the manufacturer of domestically manufactured vehicles or by an authorized agent of the manufacturer or importer of foreign made vehicles.

(2) A franchisee need not file a written agreement or certificate of appointment if the manufacturer on direct dealerships or distributor on indirect dealerships or importer on direct dealerships uses the identical basic agreement for all its franchised dealers or distributors in this state and certifies in the certificate of appointment that the blanket agreement is on file and the written agreement with the particular dealer or distributor, respectively, is identical with the filed blanket agreement and that ~~he~~ the franchisee has filed with the department one ~~such~~ agreement together with a list of franchised dealers

or distributors.

(3) A manufacturer, distributor, or importer shall notify the department within 30 days of any revision of or addition to the basic agreement on file or of any franchise supplement to the agreement. Annual renewal of a certificate filed as provided in this section is not required.

(4) A manufacturer ~~must~~ shall file with the department a copy of the delivery and preparation obligations required to be performed by a dealer prior to the delivery of a new motor vehicle to a buyer. These delivery and preparation obligations constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer. Any mechanical, body, or parts defects arising from an express or implied warranty of the manufacturer constitute the manufacturer's product or warranty liability only; provided, however, that this section ~~shall~~ may not affect the obligations of new motor vehicle dealers to perform ~~such~~ warranty repair and maintenance as may be required by law or contract. Except ~~as regards with regard to~~ household appliances, including but not limited to ranges, refrigerators, and water heaters, in a recreational vehicle, as defined in 61-1-132, and except ~~as regards with regard to~~ a truck rated at more than 10,000 pounds gross vehicle weight, the manufacturer ~~must~~ shall compensate an authorized dealer for labor, parts, and other expenses incurred by a dealer who performs work to rectify the manufacturer's product or warranty defect or for delivery and preparation obligations at the same rate and time the dealer charges to its retail customers for nonwarranty work of a like kind, based upon a published, nationally recognized, retail flat rate labor time guide manual if the dealer uses the manual as the basis for computing charges for both warranty and retail work.

(5) The dealer ~~must~~ shall furnish the purchaser of a new vehicle with a signed copy of the manufacturer's delivery and preparation requirements indicating that each of those requirements has been performed."

Section 7. Section 61-4-205, MCA, is amended to read:

"61-4-205. Limitations on cancellation and termination. (1) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, a franchisor may not cancel, terminate, or refuse to continue a franchise unless the franchisor has cause for termination or noncontinuance.

(2) A franchisor may not enter into a franchise for the purpose of establishing an additional new motor vehicle dealership in any community in which the same line-make is then represented unless there

is good cause for an additional new motor vehicle dealership under a franchise and ~~that~~ it is in the public interest.

(3) If a franchisor seeks to terminate or not continue a franchise or seeks to enter into a franchise establishing an additional new motor vehicle dealership of the same line-make, the franchisor shall, not less than 60 days prior to the intended action, and the franchisee may, at any time, file a notice with the department of intention to terminate or not continue the franchise or to enter into a franchise for additional representation of the same line-make. A notice of intention to terminate or not continue a franchise is not required from a franchisor until the conclusion of any review proceeding of that intention offered to the franchisee under the franchise. This section does not apply to an intended termination or noncontinuance of a franchise that the franchisee elects voluntarily, pursuant to a plan established by a franchisor, to submit to binding arbitration.

(4) Upon receiving a notice of intention under the provisions of subsection (3), the department shall, within 5 days of receipt of a notice of intention, send by certified mail, with return receipt requested, a copy of the notice to the franchisor and to the franchisee whose franchise the franchisor seeks to establish, terminate, or not continue. If the notice states an intent to establish an additional new motor vehicle dealership, a copy of the notice must be sent within 5 days of receipt to all franchisees in the community who are then engaged in the business of offering to sell or selling the same line-make. Copies of notices must be addressed to the principal place of business of each recipient and to the statutory agent of each corporate recipient. The department may also give a copy of the franchisor's notice to any other parties whom the department may consider interested persons.

(5) In instances where the change in ownership has the effect of the sale of the franchise, the franchisor may not without good cause withhold its consent to the sale. Good cause relates only to the transferee's financial and managerial capabilities or to the inability of the transferee to comply with a state or federal law relating to new motor vehicle dealerships. The burden of establishing good cause is upon the franchisor.

(6) Notwithstanding the terms, provisions, or conditions of an agreement or franchise, in the event of the sale or transfer of ownership of the franchisee's dealership by sale or transfer of the business or by stock transfer to the dealer's or wholesaler's spouse, son, or daughter, the franchisor shall give effect to the sale or transfer of ownership in the franchise unless the transfer of the franchisee's new

motor vehicle dealer's or wholesaler's license is denied or the new owner is unable to obtain a license under the laws of this state.

(7) If a franchisor enters into or attempts to enter into a franchise, whether upon termination or refusal to continue another franchise or upon the establishment of an additional new motor vehicle dealership in a community where the same line-make is then represented, without first complying with the provisions of this part, a license under Title 23 or 61-4-101 through 61-4-105 may not be issued to that franchisee or proposed franchisee to engage in the business of selling new motor vehicles manufactured or distributed by that franchisor."

Section 8. Section 61-4-222, MCA, is amended to read:

"**61-4-222. Fees.** (1) Upon making the application required under 61-4-221, the manufacturer shall pay to the department a fee of \$250, which entitles the manufacturer to one set of number plates, and an additional fee of \$20 for each additional set of number plates. The manufacturer may receive one set of number plates for each manufacturer's representative.

(2) The fees provided for in subsection (1) do not apply to the manufacturer of a personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, or an off-highway vehicle as defined in 23-2-801."

Section 9. Section 61-4-402, MCA, is amended to read:

"**61-4-402. Definitions.** (1) "Finance company" or "finance agency" ~~shall mean any~~ means a person, firm, association, corporation, or other organization engaged in the business of buying, selling, assigning, dealing, financing, or acquiring conditional contracts of sale or engaged in the business of purchasing or acquiring promissory notes or any other form or evidences of indebtedness of sale, either secured by vendor's lien, conditional bill of sale, chattel mortgage, or leases arising out of the sale of motor vehicles in this state.

(2) The term "manufacturer" ~~shall mean any~~ means a person, firm, corporation, partnership, or association engaged either directly or indirectly in the manufacture or wholesale distribution of motor vehicles.

(3) The term "motor vehicle", as used in this part, includes a personal watercraft as defined in

23-2-502, a snowmobile as defined in 23-2-601, and an off-highway vehicle as defined in 23-2-801.

~~(3)~~(4) The terms "sell", "sold", "buy", and "purchase", as used in this part, include exchange, barter, gift, and offer or contract to sell or buy.

~~(4)~~(5) The term "wholesale distributor" ~~shall mean any~~ means a person, firm, association, corporation, or other organization engaged directly or indirectly in the sale or distribution of motor vehicles to agents or to dealers."

Section 10. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 23, chapter 2, part 5, and the provisions of Title 23, chapter 2, part 5, apply to [section 1].

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